

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

PATRICK AMOS,

Defendant-Appellant.

UNPUBLISHED

May 20, 2003

No. 239335

Wayne Circuit Court

LC No. 01-005474

Before: Cooper, P.J., and Sawyer and Murphy, JJ.

PER CURIAM.

Following a bench trial, defendant was convicted of armed robbery, MCL 750.529. He was sentenced to 51 to 120 months' imprisonment. Defendant appeals as of right. We affirm.

This case arises out of an incident that occurred on April 23, 2001, at a Grosse Pointe Park tailor shop owned by Alfonso DiStefano. Mr. DiStefano testified that a man entered his store, pointed a gun at his stomach, and demanded his wallet. The perpetrator then reached for a black envelope that was in Mr. DiStefano's pocket and ran out the door. In shock, Mr. DiStefano telephoned the police. He described the man as being six foot tall and wearing a bulky jacket, dark sunglasses, a dark baseball cap, khaki pants, and a yellow shirt. Mr. DiStefano estimated that there was approximately \$200 in \$20 denominations in the envelope, but subsequently recalled that he had also placed a \$100 bill in the envelope.

Officer Brent Merlington testified that he observed defendant walking within a block of the tailor shop shortly after the incident. According to Officer Merlington, defendant closely matched the description of the robber. He claimed that defendant began to run when he saw the police car. As defendant fled, Officer Merlington stated that defendant discarded a bulky jacket that contained a pair of dark sunglasses in a pocket. The police also found an air pistol in the area. A video camera from inside the police car captured the chase on video. When defendant was apprehended shortly thereafter, he was wearing a yellow baseball cap and khaki pants. The police discovered \$333 in defendant's pocket, including one \$100 bill and eleven \$20 bills. Defendant testified that he fled from the police because he was carrying an ounce of marijuana and feared that there were outstanding warrants against him. Defendant alleged that the money was from an income tax return.

At trial, Detective-Sergeant Steven Johnson testified that the morning after the arrest, defendant confessed to his involvement in the robbery. According to Detective-Sergeant

Johnson, defendant watched the video of the police chase and then agreed to answer questions. Detective-Sergeant Johnson claimed that he wrote down defendant's answers and that defendant initialed the answers and signed the confession. Conversely, defendant testified that he did not knowingly sign a confession. Rather, defendant claimed that Detective-Sergeant Johnson informed him that the papers were for his release.

On appeal, defendant argues that there was insufficient evidence to prove that he was the individual involved in the robbery. We disagree. In reviewing a sufficiency of the evidence claim, we view the evidence in the light most favorable to the prosecution and determine whether a rational trier of fact could find that the essential elements of the crime were proven beyond a reasonable doubt. *People v Hunter*, 466 Mich 1, 6; 643 NW2d 218 (2002); *People v Harmon*, 248 Mich App 522, 524; 640 NW2d 314 (2001).

In support of defendant's assertion that there was insufficient evidence to prove that he perpetrated the robbery, he cites Mr. DiStefano's failure to identify him at the police line-up. Defendant claims that this is noteworthy given the fact that Mr. DiStefano claimed to recognize the perpetrator as a former patron. Additionally, defendant contends that the controversy surrounding the alleged confession renders it invalid. According to defendant, he was coerced into signing the confession because the officer informed him that the papers were for his release and only permitted him to see the signature portion of the pages.

Viewing the evidence in the light most favorable to the prosecution, we find that the trial court could reasonably conclude that defendant was the individual that robbed Mr. DiStefano. Despite the fact that Mr. DiStefano could not identify defendant in a lineup, he did provide an adequate description of the perpetrator to the police that closely matched defendant. Mr. DiStefano also explained to the court that he was confused during the line-up because the participants were not wearing baseball caps or sunglasses. Moreover, the police found a gun and a bulky jacket containing a pair of dark-rimmed sunglasses in the area that defendant was arrested. The police also confiscated over \$300, in \$100 and \$20 bill denominations, from defendant's person. We further note that defendant was arrested shortly after the robbery and within a few blocks of the tailor shop.

To the extent defendant claims that the confession was coerced and unreliable, we note that the trial court specifically determined that his testimony in this respect was incredible. "Questions of credibility are left to the trier of fact and will not be resolved anew by this Court." *People v Avant*, 235 Mich App 499, 506; 597 NW2d 864 (1999). In the signed confession, defendant admitted to robbing Mr. DiStefano with an air pistol. Nevertheless, as noted by the trial court, even without defendant's confession there was sufficient evidence to justify a rational finder of fact in concluding that defendant committed the armed robbery.

Affirmed.

/s/ Jessica R. Cooper
/s/ David H. Sawyer
/s/ William B. Murphy